

**ETHICS POLICY REVIEW COMMITTEE**  
**Conference Room 302A**  
**10 N. Division Street**  
**Battle Creek, MI 49014**  
**July 6, 2012**  
**4:00 PM**

**Committee Members Present:** Commissioners Fulton, Gray, Domenico and Walters

**Committee Members Absent:** None.

**Staff Present:** Eileen Wicklund, Vicki Houser

**Call to Order:** Commissioner Gray called the meeting to order at 4:02 p.m.

**Public Comment:** There were none.

**Approval of Minutes:**

A motion was made by Comm. Walters, supported by Comm. Fulton, to approve the April 13, 2010, meeting minutes. All yes. Motion carried.

**Discussion:**

Comm. Gray noted this committee is charged with reviewing the Ethics Policy annually, stating it has been more than a year since the prior review. Comm. Gray stated the committee started a review in April 2010 by polling the prior Commission, noting no corrections or comments were received from Commissioners at that time. Comm. Gray stated she would like the Committee to review the Ethics Policy and discuss possible additions, deletions or modifications to the policy. Comm. Gray further stated the Committee could submit their recommendations before the full Commission.

Comm. Walters stated the full Commission should review the Ethics Policy annually. Comm. Walters questioned whether the current City Commission members have signed this policy, inquiring as to whose responsibility it would be to ensure the policy is reviewed and signed annually. Comm. Walters stated he would be willing to follow up with the Commissioners to have the document signed.

City Attorney Eileen Wicklund stated the policy was given to all commissioners at the Organizational meeting. Ms. Wicklund stated a few Commissioners have returned the signed document to her. Ms. Wicklund stated it would be good to have someone follow up to make sure all documents have been signed by all of the Commissioners, stating she would speak with the Mayor to determine how she would like this completed.

Comm. Domenico asked for clarification regarding wording in the policy. Comm. Domenico asked if only “newly elected” Commissioners needed to sign the policy, or if the policy included “re-elected” Commissioners also.

Vice Mayor Fulton stated she felt the policy should be signed by all Commissioners annually.

Comm. Domenico agreed with Vice Mayor Fulton, noting the Committee should clarify the policy. Comm Walters stated this would also provide a reminder to the Ethics Policy Review Committee to meet annually to review the policy.

Ms. Wicklund provided information to the Committee members regarding an article from the Institute for Local Government. Ms. Wicklund stated there has been some confusion as to the purpose of the Ethics Policy Review Committee. Ms. Wicklund stated this Committee is not an Ethics Board, and the Committee members' role is not to take complaints or investigate complaints. Ms. Wicklund stated the Committee's purpose was to consider changes to the policy and make recommendations to the Commission. Ms. Wicklund stated the article gives suggestions on what to do for ethics violations, noting the City Commission currently has a self-enforcing ethics code. Ms. Wicklund noted every situation is different, and often ethics violations are done unintentionally, stating Commissioners are not aware of a code, noting the Committee should distinguish an accidental episode from something done purposefully.

Ms. Wicklund further stated that if the Mayor has reasonable suspicion of a violation of the Code of Ethics, the Mayor shall or any 3 Commissioners may set a meeting to determine whether a violation of the Code of Ethics has occurred and what sanctions should be imposed. Ms. Wicklund further stated that although the Commission determines what sanctions to impose, only the Governor may remove a Commissioner from office.

Comm. Domenico expressed his concern of the detrimental effects upon a Commissioner if falsely accused of a violation.

Vice Mayor Fulton stated the Commissioners could always refer to the City Attorney if there is a concern about a conflict, noting an elected official should be more cautious.

Comm. Gray asked the committee members if this committee wanted to consider another type of enforcement, suggesting a separate Ethics Commission.

Comm. Walters asked if there was a procedure for the public to question a possible ethics violation action, asking if the resident would need to file the complaint with the City Attorney.

Ms. Wicklund stated it would not be appropriate to send complainants to the City Attorney as she represents the City, including the Commissioners and members of the City Boards.

Comm. Domenico stated the policy should have an obligation for the Commissioners to communicate to the Mayor and the City Attorney, and seek direction if they hear of a violation.

Ms. Wicklund reminded the Committee that they still needed to determine who the complaints should come to, noting a need for a different procedure if there was a complaint against the Mayor.

Vice Mayor Fulton stated she felt the complaint process should be open to both residents and commissioners, noting she would like clarification regarding the complaint process for a possible violation of the Ethics Policy.

Ms. Wicklund questioned whether the Committee was thinking of establishing a separate Ethics Committee to receive complaints. Ms. Wicklund stated the Ethics Policy Review Committee could receive complaints and determine the next course of action.

Comm. Gray asked the committee members if they would recommend a change to items 15B and 15C of the Ethics Policy, asking if the policy should stay as written, and internal with this committee, or if a separate committee should be formed to process complaints.

Comm. Walters stated he does not feel another committee should be formed, noting the process to file a complaint should be simple.

Comm. Domenico recommended all City Commissioners have equal responsibility for ensuring the compliance of the Ethics Policy. Comm. Domenico further recommended the Ethics Policy Review Committee review the information and provide recommendations.

Comm. Walters recommended the Committee members abstain if the complaint was regarding them, noting the Committee would still have a quorum with three members

Vice Mayor Fulton stated formulating a new committee would not be her preference.

Ms. Wicklund recommended the complaints be brought to the Ethics Policy Review Committee, who would then consider the validity of the complaint, and if validated, bring the complaint to the City Commission.

Ms. Wicklund further stated this change would require an ordinance amendment. Ms. Wicklund also recommended guidelines requiring the complaints be in writing, with the facts of the accusation, noting the complainant cannot be anonymous.

Comm. Walters recommended the Committee notify the complainant of the schedule of the Commission meeting and compel them to attend to discuss their complaint. Comm. Walters asked that the notice state when the meeting is, noting the Committee is willing to proceed but would require complainants' attendance to discuss the complaint.

Ms. Wicklund stated she would draw up some information for the committee to review and make recommendations. Ms. Wicklund stated another meeting could be held to finalize the recommended changes to the ordinance, prior to presenting to the full Commission.

Comm. Gray recommended the Committee send the current Ethics Policy to the other Commissioners for review and recommendations so that the Ethics Policy Review Committee could review the Commissioners' concerns and recommendations at the next meeting. Comm. Gray recommended asking the Commission to return their recommendations to the Committee by Tuesday, July 17, 2012.

The Committee members agreed to set the next meeting of the Ethics Policy Review Committee for Friday, August 17, 2012 at 3:00 PM in Room 112

Comm. Domenico expressed his concern the complainant's name would become public record. Comm. Domenico also expressed his concern that the committee protect a possible victim or complainant from retribution.

Ms. Wicklund reminded the Committee that a complaint against a public official would be public record. Ms. Wicklund recommended a Commissioner investigate and verify the complainant's allegation if the complainant was unwilling to appear before the City Commission to make the complaint. Ms. Wicklund further stated that if a complaint was of a criminal nature the complainant would need to contact the police or the county prosecutor, which would then go through the legal process. Ms. Wicklund reminded

the Committee the FOIA law is an act of disclosure, noting information can only be redacted if it falls under a statutory exemption.

Comm. Gray stated she would prefer not to add more to the policy, but noted that there is a lot of public confusion as to the purpose of the Ethics Policy Review Committee. Comm. Gray stated the Ethics Policy is available on the City's website and stated she may have a presentation of the Ethics Policy on the Keeping You Informed program.

Ms. Wicklund stated she could review the Commissioner recommendations as soon as they are received, and prepare a rough draft of the modifications prior to the August 17, 2012 meeting.

Comm. Domenico inquired as to item 7B(1) of the Ethics Policy regarding gifts not exceeding \$100, noting this is a token amount given current economic conditions. Comm. Domenico stated he would like this item to be considered for review. Comm. Domenico asked if campaign contributions should also be reviewed. After committee discussion, Comm. Domenico agreed this amount was a standard amount and should be kept as presented.

Ms. Wicklund recommended everyone read the Ethics Policy regularly, reminding the members the policy references acts in the performance of a Commissioner's public duties, not their personal actions.

Comm. Walters recommended the Committee request the assistance of the media to help educate the public regarding Ethics Policy.

Comm. Gray adjourned the meeting at 4:05PM.